

FROM : COMM. ARMI JANE R. BORJE

FAX NO. : 9217128

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REPUBLIC OF THE PHILIPPINES  
DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS  
NATIONAL TELECOMMUNICATIONS COMMISSION  
BIR Road, East Triangle Diliman, Quezon City

RECEIVED

January 21, 2004

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General Counsel Division  
Office of the Secretary

Hon. Michael K. Powell  
Chairman  
FEDERAL COMMUNICATION COMMISSION  
445 12<sup>TH</sup> Street SW  
Washington D.C. 20554

Dear Chairman Powell:

This is to acknowledge your letter of January 5, 2004 to the Commission addressed to then Commissioner Armi Jane Borje.

At the outset, please be informed that last January 8, 2004, Her Excellency President Gloria Macapagal-Arroyo, has appointed a new NTC Commissioner, lawyer Ronald Olivar Solis replacing former Commissioner Armi Jane R. Borje.

The Commission is pleased that following its October 17, 2003 Order to our Philippine carriers to immediately accept terminating traffic via direct circuits from US facilities based carriers (the parties), on mutually acceptable settlement of final or interim arrangements under a free and appropriate commercial atmosphere for negotiations, there has been progress in the restoration of direct telecommunications services between the Philippines and the United States traffic affected by the stop payment order and the direct circuit disruption on some of the US facilities based carriers.

To date, the Commission is aware that all of our telecom carriers are accepting terminating traffic via direct circuits from US under mutually agreed terms and conditions. We are, therefore, elated at your report that FCC has promptly lifted the stop payment order imposed on some of our national carriers and that you expect U.S. carriers to comply with their legal contractual obligations respecting services rendered prior to February 1, 2003, including back payments owed to Philippine carriers. More important to us is the confidence you have expressed that all parties ( the Philippine and US carriers ) can work together to resolve outstanding problems and that continuing negotiations between the U.S. and the Philippines will be successful.

However, last January 12, 2004, it had come as a surprise to the Commission the so-called Honolulu incident involving our telecom executives wherein subpoenas were served by FBI agents to several of them while attending the Annual Pacific Telecommunications Council (PTC) Conference in Honolulu, Hawaii. Reports reaching

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us revealed that subpoenas were served in their rooms during unholy hours of the day and night, in public places, and even in the airport. We understand that this is in connection with the alleged violation of the US anti-trust laws arising from the termination rate issue between the US and Philippine telecom carriers.

Our Philippine Government, through the Department of Foreign Affairs (DFA), and no less than our President Gloria Macapagal-Arroyo has expressed dismay on the manner in which the Filipino executives were served subpoenas, interrogated and compelled to testify before the Grand Jury of the United States District Court, District of Hawaii while in the United States to attend a top level and well represented international telecom conference from government, industry, civil society and the business world of telecom investors. And to think that all the while, these continuing commercial negotiations find support by our respective governments and is progressing well because of the collaborative efforts by our governments' regulatory agencies and through commercial negotiation and dialogue between our carriers especially after the NTC October 17, 2003 Order.

We would like, therefore, to be enlightened on this unexpected twist or development. We firmly believe that the FCC, having full knowledge of the facts and circumstances on this termination rate dispute could apprise or make representations to the US Department of Justice about the latest development on this issue of termination rates, where the concerned parties either have concluded or are currently negotiating on mutually agreed terms and conditions.

The Commission would also appreciate if the FCC could advise us soonest about this US DOJ investigation in Hawaii of our telecom executives before the US Grand Jury of the District Court of Hawaii, so that we can, in turn, inform our government about its actual nature and progress.

You have our cooperation and highest regard.

  
RONALD OLIVAR SOLIS  
Commissioner  
KATHLEEN G. HECETA  
Deputy Commissioner  
JORGE V. SARMIENTO  
Deputy Commissioner